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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,451	03/12/2001	Earl J. Votolato	019502.0014US1	9847

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EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT PAPER NUMBER

3724

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Sp

Office Action Summary	Application No. 09/804,451	Applicant(s) VOTOLATO, EARL J.	
	Examiner Hwei-Siu C. Payer	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 1001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

The amendment filed on 2-15-2005 has been entered.

Objection to the Specification

The disclosure is objected to because of the following informalities:

- (1) In paragraph [0022], line 5, "blade cover 16" should read --blade 20--.
- (2) In paragraph [0022], line 7, "and" should be deleted.

Appropriate correction is required.

Claims Objection

Claims 1-5 are objected to because of the following informalities:

- (1) In claim 1, line 10, "the locking assembly" should read --the self-locking release assembly--.

- (2) In claim 4, line 2, "a trigger" should read --the finger-operated trigger--.

Appropriate correction is required.

Claims Rejection - 35 U.S.C. 112, second paragraph

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 8-10, "a manually triggered self-locking release assembly, and operated to re-lock the locking assembly" does not make sense. It sounds like the release assembly is re-locking itself. It appears "operates to re-lock the locking assembly" should read --operates to re-lock the cover--.

Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson, Jr. (U.S. Patent No. 4,091,537) in view of Owens et al. (U.S. Patent No. 5,878,501).

Stevenson, Jr. discloses a utility knife (10) comprising a handle (12) having a distal portion; a blade (24) secured to an extending from the distal portion, the blade (24) having a cutting edge (34); a blade cover (26) that moves between an operating position in which the blade (24) is exposed (see Figs.5-6), and a safety position in which at least the cutting edge (34) is covered (see Figs.1 and 4), and that is biased towards

the safety position; and a manually trigger self-locking release assembly (see column 5, line 23 to column 6, line 2) internal to the handle (12), that unlock the cover (26) when a finger-operated trigger (28) is operated so that the cover (26) can be retracted, and the cover (26) automatically locks in place when the cover (26) is returned to the safety position, the cover (26) retractable linearly into the handle (12), the cover (26) and the trigger (28) biased by springs (48,54), and the trigger (28) located on an inferior surface of the handle (12) substantially as claimed except the cover (26) covers only the cutting edge (34) of the blade (24) and not a side of the blade (24).

Owens et al. disclose a utility knife comprising a blade (12) and a blade cover (14) that covers at least a cutting edge and a portion of a side of the blade (see Fig.1).

It would have been obvious to one skilled in the art to modify Stevenson, Jr. by having the blade cover (26) so shaped in such a way that it covers both the cutting edge and a portion of a side of the blade to ensure a safer guarding of the blade as taught by Owens et al.

Remarks

Applicant's arguments filed 2-15-2005 have been fully considered but they are not persuasive. Applicant argues, at page 4 of the amendment, Stevenson contemplates a particular shape of blade guard, namely "it has to be particularly pointed out that the shape of the retractable blade guard 26 is that of an elongated rod" (Spec.,

col.4, lines 25-27), and that is hardly language that would encourage one of ordinary skill in the art to choose a blade guard of different shape, or to substitute the blade over of Owens et al. for the blade guard of Stevenson.

In response, Examiner agrees Stevenson does point out in the specification the shape of the blade guard. However, this is merely to confirm the blade guard shown in the drawings. Stevenson does not explicitly exclude any shape for his blade guard.

On the other hand, Owens et al., show a blade cover (14) that covers at least a cutting edge and a portion of a side of the blade (see Fig.1). From reading the Owens et al. reference, one skilled in the art would immediately envisage the advantage of having a blade guard that covers not only the cutting edge of the blade but also a portion of a side of the blade to enhance the ultimate safe guard of the blade. Therefore, it would be desirable and have been obvious to one skilled in the art to modify Stevenson's rod shape guard by having it shaped in such a way so that it covers both the cutting edge and a portion of a side of the blade to ensure a safer guarding of the blade as taught by Owens et al.

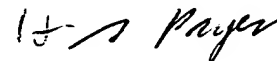
On page 5 of the amendment, Applicant is willing to amend the claims further to clarify that claimed trigger is index finger operated to distinguish from Owens et al. In response, Fig.6 of the primary reference Stevenson, Jr. shows the operation of the utility knife tool, the trigger (28) can be operated by either the thumb or the index finger of a user.

Point of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for official communications and 571-273-4511 for proposed amendments.

H Payer
April 20, 2005



Hwei-Siu Payer
Primary Examiner